

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**TILE, INC.,**

**Plaintiff,**

**v.**

**1:20-CV-428  
(FJS/DJS)**

**CELLNTELL DISTRIBUTION INC. and  
RELIANCE DISTRIBUTION INC.,**

**Defendants.**

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**APPEARANCES**

**K & L GATES LLP**  
State Street Financial Center  
One Lincoln Street  
Boston, Massachusetts 02111  
Attorneys for Plaintiff

**CRISCIONE RAVALA, LLP**  
90 Park Avenue, Suite 1700  
New York New York 10016  
Attorneys for Defendants

**SCULLIN, Senior Judge**

**OF COUNSEL**

**MORGAN T. NICKERSON, ESQ.  
NICOLE M. KOZIN, ESQ.**

**GALEN J. CRISCIONE, ESQ.**

**ORDER**

In a Memorandum-Decision and Order dated June 30, 2021, the Court, among other things, granted "Defendant Reliance's motion to vacate the default judgment entered against it conditioned on Defendant Reliance's payment of the reasonable attorney fees that Plaintiff incurred in bringing [its] default motion." *See* Dkt. No. 31 at 19. The Court further "instructed [Plaintiff's counsel] to file and serve an affidavit with supporting documentation showing the hours expended and tasks performed related to . . . bringing the default motion on or before July 14, 2021[.]" *See id.* at 20. Finally, the Court ordered that, once it had

enter[ed] an Order regarding the amount of attorney's fees Defendant Reliance [was] required to pay to Plaintiff **and** Defendant Reliance [had] file[d] an affidavit attesting that it ha[d] complied with said Order, the Court [would] vacate the defendant judgment entered against Defendant Reliance and, **within fourteen (14) days of that vacation**, Defendant Reliance shall file its response to Plaintiff's complaint . . . .

*See id.*

On July 14, 2021, Plaintiff filed its affidavit of counsel in support of the fee award and supporting documentation requesting \$13,268.50 in attorney's fees in connection with its filing of the default motion. *See* Dkt. No. 32 & Exhibit A, Affidavit of Morgan T. Nickerson, at ¶ 5. On November 19, 2021, the Court "Order[ed] that Defendant Reliance Distribution Inc. shall pay Plaintiff the amount of **\$13,268.50** in attorney's fees on or before **December 3, 2021**; and upon making such payment, shall file an affidavit with the Court attesting that it has done so." *See* Dkt. No. 44 at 2.

On December 22, 2021, Plaintiff filed a motion requesting that the Court deny Defendant Reliance's motion to vacate the default judgment entered against it because Defendant Reliance had not paid Plaintiff any of the \$13,268.50 in attorney's fees that the Court had ordered it to pay by December 3, 2021. *See* Dkt. No. 45-1, Plaintiff's Memorandum of Law, at 5 (citing Nickerson Aff., at ¶ 7). Defendant Reliance filed no response to Plaintiff's motion.

Accordingly, the Court hereby

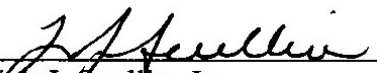
**ORDERS** that Plaintiff's motion requesting that the Court deny Defendant Reliance's motion to vacate the default judgment entered against it, *see* Dkt. No. 45, is **GRANTED**; and the Court further

**VACATES** that part of its June 30, 2021 Memorandum-Decision and Order, *see* Dkt. No. 31, in which the Court conditionally granted Defendant Reliance's motion to vacate the Court's September 14, 2020 Order, *see* Dkt. No. 18; and the Court further

**ORDERS** that Defendant Reliance's motion to vacate the Court's September 14, 2020 Order granting Plaintiff's motion for a default judgment and awarding Plaintiff statutory damages against Defendant Reliance in the amount of \$1,000,000.00, *see* Dkt. No. 24, is **DENIED**.

**IT IS SO ORDERED.**

Dated: April 25, 2022

  
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Frederick J. Scullin, Jr.  
Senior United States District Judge